## IN THE UNITED STATES DISTRICT COURT

## FOR THE EASTERN DISTRICT OF TEXAS

## BEAUMONT DIVISION

LEE ANTHONY JOHNSON §

VS. § CIVIL ACTION NO. 1:16-CV-388

SADIE VINCENT, ET AL. §

## ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Lee Anthony Johnson, a prisoner previously confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Sadie Vincent, Kristenia D. Jones, Rebecca R. Tomkins, Bryan Broussard, and Henry E. Adam. Plaintiff requested leave to proceed *in forma pauperis*.

The court ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends denying plaintiff leave to proceed *in forma pauperis* and dismissing the action pursuant to 28 U.S.C. § 1915(g).

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and the pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit. Plaintiff cites incidents that took place more than one year after this

action was filed as proof he is in imminent danger of serious harm. However, in order to proceed

in forma pauperis, plaintiff must show that he was in imminent danger of serious harm at the time

the action was filed. For the reasons stated by the Magistrate Judge, plaintiff has not met this

burden. Therefore, plaintiff is not eligible to proceed in forma pauperis.

**ORDER** 

Accordingly, plaintiff's objections (document no. 28) are **OVERRULED**. The findings of

fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate

Judge (document no. 24) is **ADOPTED**. Plaintiff's motion for leave to proceed in forma pauperis

(document no. 2) is **DENIED**. A final judgment will be entered in this case in accordance with the

Magistrate Judge's recommendation.

So ORDERED and SIGNED this 1 day of March, 2018.

Rom Clark

Ron Clark, United States District Judge